

EXHIBIT 1

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ORIGINAL FILED

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CAUSE NO.: _____

Scott G. Weber, Clerk, Clark Co.

KENNETH J. HUTCHISON

IN THE SUPERIOR COURT

Plaintiff,

VS.

OF

CORE HEALTH & FITNESS, LLC,

Defendants

CLARK COUNTY, WASHINGTON

PLAINTIFF'S ORIGINAL COMPLAINT

COMES NOW, Kenneth J. Hutchison, hereinafter referred to as "Plaintiff," and files this, his lawsuit against Core Health & Fitness, LLC. (hereinafter referred to as "Defendant") and in support thereof, for causes of action would respectfully show this Honorable Court as follows:

I.

DISCOVERY CONTROL PLAN

1.1 Plaintiffs hereby request that the parties to the lawsuit be permitted to enter an agreed docket control order to schedule the deadlines of the instant action.

II.

PARTIES

2.1 Plaintiffs Kenneth J. Hutchison is a resident citizen of Ft. Bend County, Texas.

2.2 Defendant Core Health & Fitness, LLC (Core) is a foreign limited-liability company organized under the laws of Nevada with a principal place of business in Vancouver, Washington. Core Health & Fitness can be served through its registered agent for service Business Filings Incorporated, 711 Capitol Way S., #204, Olympia, WA., 98501.

2.3 Plaintiff hereby brings suit against all partnerships, unincorporated associations, individuals, entities, and private corporations doing business under the assumed or common name

of Core Health & Fitness. In the event that any Defendant is being sued under its assumed or common name, Plaintiff requests that Defendants answering in their true name.

2.4 In the event any parties are misnamed or are not included herein, it is the Plaintiff's contention that such was a "misidentification", "misnomer" and/or such parties are/were "alter egos" of parties named herein. Alternatively, Plaintiff contends that such "corporate veils" should be pierced to hold such parties properly included in the interest of justice.

III. VENUE AND JURISDICTION

3.1 Venue is proper in Clark County, Washington as Core Health & Fitness, LLC's principal place of business is in Vancouver, Clark County, Washington. The claims arising from the injury producing incident that forms the basis of Plaintiff's claims are within the jurisdictional limits of this Court.

IV. BACKGROUND FACTS

4.1 On or about November 7, 2018, Plaintiff Kenneth Hutchison was utilizing his StairMaster exercise machine, designed, manufactured and sold by Defendant Core Health & Fitness, when he was caused to suffer a permanent and disabling injury specifically a traumatic amputation of the right index finger.

V. CAUSE OF ACTION AGAINST DEFENDANT CORE HEALTH & FITNESS, LLC.

5.1 At all times material hereto, Core Health & Fitness, LLC was in the business of designing, manufacturing, marketing, selling, and distributing the subject StairMaster, and did design, manufacture, market, sell, and distribute the StairMaster involved in the subject incident.

5.2 Core Health & Fitness is thus the “manufacturer” of the subject equipment and is liable under the doctrine of strict products liability in tort for injuries produced by defects in the subject equipment arising out of the design, manufacture and/or marketing of said equipment.

5.3 There were design and manufacturing defects in the subject equipment at the time it left the possession of Core Health & Fitness. Specifically, the subject equipment was unreasonably dangerous and defective as designed and manufactured, taking into consideration the defective design of the components and utility of the equipment with the risks involved in its use.

5.4 Said design and manufacturing defects caused the StairMaster to have unreasonable and unsafe locations of open holes, and unsuitable “kill switch” which caused the incident that forms the basis of Plaintiffs’ claims, and caused Hutchison catastrophic injuries and Plaintiffs’ damages.

5.5 The subject equipment was dangerous to an extent beyond that which would be contemplated by the ordinary user of the equipment with the ordinary knowledge common to the community as to the equipment’s characteristics.

5.6 At the time the subject equipment left the possession of Core Health & Fitness, there were safer alternative designs other than the design utilized to connect the core components of the equipment that would have prevented or significantly reduced the risk of the injuries to Hutchison and plaintiff’s damages.

5.7 The alternative designs were both economically and technologically feasible by the application of existing or reasonably achievable scientific knowledge at the time the subject equipment left the control of Core Health & Fitness.

5.8 To the extent Core Health & Fitness may attempt to rely on any standards or regulations of the federal government, such standards or regulations were inadequate to protect against the risk of accident and/or injuries that occurred in this accident and/or Core Health & Fitness withheld or misrepresented information to the government regarding the adequacy of the safety standard at issue.

5.9 Defendant Core Health & Fitness committed acts of omission and commission, which collectively and severally constituted negligence:

- Failing to warn foreseeable users of the defects in its equipment,
- Failing to warn foreseeable users of the extreme degree of risk associated with operating the equipment;
- Failing to design and manufacture a safe piece of equipment;
- Failing to use ordinary care in selling a safe product for the ultimate user; and
- Failing to use ordinary care to notify consumers of known defects and safe and reasonable use of the equipment it sells, including the subject equipment.

5.10 Defendant's acts of negligence were proximate causes of the subject incident, the injuries sustained by Hutchison and all of plaintiff's resulting damages.

VI. DAMAGES

6.1 As a result of the negligence and gross negligence of Defendants, Plaintiff Kenneth J. Hutchison has incurred necessary hospital and medical expenses and will continue to incur medical expenses in connection with said injuries for an undetermined length of time in the future.

6.2 As a direct and proximate result of the negligence and gross negligence of Defendants, Plaintiff Kenneth J. Hutchison suffered severe injuries and extreme physical pain,

suffering and mental anguish, physical incapacity and, in all probability, Plaintiff Kenneth J. Hutchison will be forced to endure physical pain, suffering, mental anguish and physical incapacity for an undetermined length of time and for the remainder of his life. In the incident made the basis of this suit, Plaintiff Kenneth J. Hutchison suffered injuries to a traumatic amputation of his right index finger. ry. As a direct and proximate cause of Defendants' negligent and grossly negligent conduct, Plaintiff Kenneth J. Hutchison has been forced to undergo extensive and ongoing medical treatment.

6.3 All damages sought by Plaintiff Kenneth J. Hutchison include damages that were sustained in the past, and that, in reasonable probability, will be sustained in the future. Plaintiff Kenneth J. Hutchison seeks both pre-judgment and post judgment interest as allowed by law, for all costs of Court, and all other relief, both at law and in equity to which he is entitled. Therefore, Plaintiff Kenneth J. Hutchison will seek to recover all damages allowed by law, not to exceed \$1,000,000.00, including any damages to compensate him for the following:

- a. all necessary medical care expenses in the past;
- b. all necessary medical care that, in reasonable probability, Plaintiff will sustain in the future;
- c. physical pain and suffering in the past;
- d. physical pain and suffering in the future;
- e. mental anguish in the past;
- f. mental anguish that, in reasonable probability, Plaintiff will sustain in the future;
- g. physical impairment in the past;

- h. physical impairment that, in reasonable probability, Plaintiff will sustain in the future;
- i. disfigurement in the past;
- j. disfigurement that, in reasonable probability, Plaintiff will sustain in the future;
- k. lost earnings in the past; and
- l. loss of earning capacity that, in reasonable probability, Plaintiff will sustain in the future

**VII.
PRE-JUDGMENT AND POST-JUDGMENT INTEREST**

7.1 Plaintiff seeks pre-judgment and post-judgment interest as provided by law.

**VIII.
CONDITIONS PRECEDENT**

8.1 All conditions precedent to Plaintiff's right to recover and Defendants' liability have been performed or have occurred.

**IX.
JURY DEMAND**

9.1 Plaintiffs request a trial by jury.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited to appear and answer herein, that this cause be set for trial before a jury, and that Plaintiff recover judgment of and from Defendants for their actual and exemplary damages, in such amount as the evidence shows and the jury determines to be proper, together with pre-judgment interest and

post-judgment interest, costs of suit, and such other and further relief to which Plaintiff may show themselves to be entitled, whether at law or in equity.

Respectfully submitted,

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